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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

GAIL P. ARCINIEGA, an ) Civil No. 13cv2066 JAH(RBB)  
individual, )  
Plaintiff, ) NOTICE AND ORDER FOR EARLY  
v. ) NEUTRAL EVALUATION CONFERENCE  
THE BEST SERVICE COMPANY; DOES )  
1-10, INCLUSIVE, )  
Defendants. )  
\_\_\_\_\_

Due to the Court's calendar and in order to encourage maximum participation of all litigants and the Court, good cause appears to continue the early neutral evaluation conference beyond forty-five days of the filing of the first answer.

IT IS HEREBY ORDERED that an early neutral evaluation of your case will be held before United States Magistrate Judge Ruben B. Brooks, United States Courthouse, 221 West Broadway, Courtroom 2C, San Diego, California, on November 26, 2013, at 2:00 p.m.

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, all parties (including those who are indemnified by others), claims

1 adjusters for insured Defendants and non-lawyer representatives  
 2 with full and unlimited authority<sup>1</sup> to enter into a binding  
 3 settlement, as well as the principal attorneys responsible for the  
 4 litigation, must be present and legally and factually prepared to  
 5 discuss and resolve the case. Corporate counsel shall not appear  
 6 on behalf of a corporation as the party representative who has the  
 7 authority to negotiate and enter into a settlement. Failure to  
 8 attend or obtain a proper excusal will be considered grounds for  
 9 sanctions. (Where the suit involves the United States or one of  
 10 its agencies, only counsel for the United States with full  
 11 settlement authority need appear.) (If Plaintiff is incarcerated  
 12 in a penal institution or other facility, the Plaintiff's presence  
 13 is not required and Plaintiff may participate by telephone. In  
 14 that case, defense counsel is to coordinate the Plaintiff's  
 15 appearance by telephone.)

16 Plaintiff's(s') counsel shall give notice of the early neutral  
 17 evaluation conference to all defendants filing an answer after the  
 18 date of this notice.

19 All conference discussions will be informal, off the record,  
 20 privileged and confidential. Absent good cause shown, if any  
 21 party, counsel or representative fails to promptly appear at the

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22       <sup>1</sup> "Full authority to settle" means that the individuals at  
 23 the settlement conference be authorized to fully explore settlement  
 24 options and to agree at that time to any settlement terms  
 25 acceptable to the parties. Heileman Brewing Co., Inc. v. Joseph  
Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have  
 26 "unfettered discretion and authority" to change the settlement  
 position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D.  
 481, 485-86 (D. Ariz. 2003). The purpose of requiring a person  
 with unlimited settlement authority to attend the conference  
 27 includes that the person's view of the case may be altered during  
 the face-to-face conference. Pitman at 486. A limited or a sum  
 28 certain of authority is not adequate. Nick v. Morgan's Foods,  
Inc., 270 F.3d 590 (8th Cir. 2001).

1 settlement conference, fails to comply with the terms of this  
2 Order, including the failure to timely provide the settlement  
3 conference memoranda WHEN REQUESTED, is substantially unprepared to  
4 meaningfully participate in the settlement conference, or fails to  
5 participate in good faith in the settlement conference, the  
6 settlement conference may be vacated and sanctions may be imposed  
7 pursuant to Rules 16(f) and 37(b)(2)(B), (C), and (D), Federal  
8 Rules of Civil Procedure.

9       In the event the case does not settle at the early neutral  
10 evaluation conference, the parties shall also be prepared to  
11 discuss the following matters at the conclusion of the conference:

- 12           1. Any anticipated objections under Federal Rules of Civil  
13 Procedure 26(a)(1)(E) to the initial disclosure provisions of  
14 Federal Rule of Civil Procedure 26(a)(1)(A-D);  
  
15           2. The scheduling of the Federal Rule of Civil Procedure 26  
16 (f) conference (except in patent cases where no later than twenty-  
17 one days before the early neutral evaluation conference, the  
18 parties are to meet and confer pursuant to Rule 26(f));  
  
19           3. The date of initial disclosure and the date for lodging  
20 the discovery plan following the Rule 26(f) conference; and  
  
21           4. The scheduling of a case management conference pursuant to  
22 Federal Rule of Civil Procedure 16(b).

23       The Court will issue an order following the early neutral  
24 evaluation conference addressing these issues and setting dates as  
25 appropriate.

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1           Questions regarding this case may be directed to the  
2 magistrate judge's research attorney at (619) 557-3404.  
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4           Dated: October 24, 2013

  
RUBEN B. BROOKS  
United States Magistrate Judge

5           cc: All Parties of Record  
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27           A Notice of Right to Consent to Trial Before a United States  
Magistrate Judge is attached for your information.  
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1                   **NOTICE OF RIGHT TO CONSENT TO TRIAL BY UNITED STATES**  
2                   **MAGISTRATE JUDGE**

3                   In accordance with the provisions of 28 U.S.C. § 636(c), you  
4 are hereby notified that a United States Magistrate Judge of this  
5 district may, upon the consent of all parties, conduct any or all  
6 proceedings, including a jury or non-jury trial, and order the  
7 entry of a final judgment. Consent forms are available in the  
8 Clerk's office. Counsel for the Plaintiff shall be responsible for  
9 obtaining the consent of all parties, should they desire to  
10 consent.

11                  You should be aware that your decision to consent or not to  
12 consent is entirely voluntary and should be communicated solely to  
13 the Clerk of the Court. Only if all parties consent will the  
14 district judge or magistrate judge to whom the case has been  
15 assigned be informed of your decision.

16                  Judgments of the United States Magistrate Judges are  
17 appealable to the United States Court of Appeals in accordance with  
18 this statute and the Federal Rules of Appellate Procedure unless  
19 the parties at the time of their consent to trial before a  
20 magistrate judge agree upon review by the United States District  
21 Court.

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